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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

AZERBAIJAN

1. The Committee considered the initial report of Azerbaijan on the rights covered by articles 1 to 15 of the Covenant (E/1994/5/Add.30) at its 39th to 41st meetings, held on 25 and 26 November 1997, and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report of the State party, which was prepared in conformity with the guidelines regarding the form and contents of reports to be submitted by States parties. It also appreciates the additional information provided in response to the written list of questions (E/C.12/Q/AZE/1) and welcomes the high-level delegation with which it engaged in an open and constructive dialogue. The Committee, however, notes with regret that much of the additional information provided was incomplete or of a general nature and that consequently, a number of specific concerns raised by it were not addressed during the dialogue.

B. Positive aspects

3. The Committee welcomes the fact that Azerbaijan ratified or acceded to the principal international human rights treaties, including the Covenant, immediately after achieving independence in 1991.

1/ At its 54th meeting, on 5 December 1997.

4. The Committee notes the existence of rich agricultural and oil resources in Azerbaijan, as well as a relatively advanced industrial sector. If well utilized, these resources may aid long-term enjoyment of economic, social and cultural rights. The Committee further notes the success achieved in stabilizing some key macroeconomic indicators.

5. The Committee notes that in newly independent countries, a large body of legislation is normally required in all areas relating to basic government functions. In this regard, it welcomes the progress made thus far in developing or enacting legislation, inter alia, in the areas of labour, social insurance, refugees and stateless persons, and education.

6. The Committee welcomes the work conducted by the State Employment Service in finding jobs for applicants, providing counselling and vocational training.

7. The Committee notes the generally high level of education of the population. It welcomes the fact that 10 years of free, compulsory education are provided. It welcomes the broad participation of women in institutions of higher learning, as well as the measures being taken to provide education to members of minorities and to refugees.

8. The Committee further notes that extensive international assistance has been mobilized to assist the State party during its difficult transition.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that Azerbaijan is undergoing rapid changes in its development and is experiencing socio-economic difficulties that are typical in many countries with economies in transition. It notes in particular that national production and income have declined dramatically since 1991 and that, by the Government's admission, nearly the entire population of Azerbaijan is living in poverty.

10. The Committee notes with concern that a large proportion of the resources necessary to finance social programmes is diverted by corruption, which pervades State organs and the sectors of the economy that are still under State control.

11. The Committee notes the flight of capital and the emigration of specialists that resulted, in part, from such difficulties.

12. The Committee notes that the State party is also faced with considerable adversity and instability due to an armed conflict with Armenia. As a result of the conflict, there are a large number of refugees and internally displaced persons whose stay in Azerbaijan may become a prolonged one.

D. Principal subjects of concern

13. The Committee notes with concern the lack of information concerning the status of the Covenant in domestic law, the extent to which the rights contained therein may be invoked in the courts, as well as the absence of

cases before the courts relating to those rights. It is concerned that there appears to be a generally low level of awareness among the general public of the emerging national legislative framework, including the provisions relating to human rights. In addition, there is not at present an effective recourse mechanism for persons who consider their rights to have been violated. The Committee notes, in this regard, that the Constitutional Court has not yet been established.

14. The Committee notes with concern that because of the large proportion of public expenditures devoted to facilitating the development of the oil industry, there has not been sufficient attention given to encouraging the development of small and medium-sized enterprises. It also notes that inadequate attention has been paid to the adverse environmental consequences of some of the activities of the oil industry.

15. The Committee stresses the importance of an independent judiciary, ensured not only by constitutional declaration, but also de facto by guarantees accorded to magistrates, in order to ensure the exercise of all human rights, in particular economic, social and cultural rights, and the availability of effective remedies in case of violation.

16. With respect to specific provisions of the Covenant, the Committee calls attention to article 1 on the right of self-determination. The Committee regrets that, due to lack of information, it is unable to assess to what extent the general public is able to participate in the privatization process. It stresses the importance of managing this process in a way that is sufficiently transparent to ensure fairness and accountability.

17. The Committee notes with concern the lack of detailed information concerning the situation faced by refugees in the State party.

18. While it welcomes the statements made by the delegation that women enjoy equality of status with men, the Committee reaffirms the need for objective disaggregated data to assess the situation of women with respect to all the rights provided for in the Covenant. Data that are indicative of the status of women, in addition to the information presented orally during the dialogue, would include health care, professional opportunities and measured income differentials between women and men.

19. The Committee notes with deep concern the problems faced with respect to articles 6, 7 and 8. The Committee is concerned by the high level of unemployment, including hidden unemployment, and the absence of details concerning national and local employment programmes or other clear strategies to address this problem. It notes that a large proportion of unemployed persons have found a means of sustenance in the informal sector, which appears to have surpassed the formal economy in volume. Regrettably, there appear to be attempts on the part of the Government to eradicate the informal sector.

20. The Committee also notes with concern the lack of detailed information on mechanisms relating to the right to form and join trade unions. It notes the absence of a clear definition of "political activities", which trade unions are prohibited from engaging in by the 1994 Law on Trade Unions. It

further notes that the categories of workers that are prohibited from exercising their right to strike include a broad range of workers in the public service, defence and communications fields.

21. With respect to article 9, the Committee expresses concern that the disintegration of public finance and the high rate of inflation have destroyed the purchasing power of pensions and social insurance benefits. It regrets that information on how, in times of high unemployment, the size of pensions is adjusted for persons who do not meet the minimum number of years of employment was not forthcoming.

22. The Committee stresses the need for effective control over inter-country adoption of children. In the absence of such controls, foreign adoption may subject children to various types of exploitation, including sexual abuse. Pursuant to article 10, the Committee regrets that, despite the assurances of the delegation to the contrary, women are not receiving adequate medical care during pregnancy and childbirth. It regrets that its questions on the effect on women of the proposed introduction of a three-tier fee system remain unanswered.

23. The Committee expresses its alarm over the prolonged decline in the standards of living. This is evident in the rising level of poverty, the large proportion of the population living without safe drinking water, the lack of affordable housing, the decline in agricultural production due to the inefficiencies of the privatization process of State farms and the consequent inadequacies in food production and distribution, the declining quality of medical care and the declining number of persons receiving medical care. The Committee seeks information on measures being taken or envisaged for the protection of vulnerable groups, including children who do not have a family, single parents, and unemployed persons.

24. The Committee expresses concern about the shortage of housing which is compounded by the influx of refugees and displaced persons, and the fact that vulnerable groups and the homeless are not given adequate protection against forced evictions.

25. The Committee notes with concern that the general shortage of resources is weakening the educational system and corrupting the traditionally high educational standards of the State party. Education has also become more costly, which is having a disproportionate effect on the poor.

26. In the spirit of the United Nations Decade for Human Rights Education, the Committee draws attention to paragraph 1 of article 13, which states that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen respect for human rights and fundamental freedoms. The Committee regrets having received no information in this regard.

E. Suggestions and recommendations

27. The Committee recommends that the Covenant be granted a definitive status in domestic law by which the rights contained in it may be invoked in the courts. It recommends that instruction on the Covenant be included in the

training of lawyers, judges, social workers and other professionals whose work is relevant to economic, social and cultural rights. It further recommends that the Constitutional Court be established as a matter of priority.

28. The Committee recommends that the State party regulate the oil industry more effectively, particularly with respect to its potentially adverse effects on the environment. The Committee suggests that the Government encourage diversification of the economy into other industries and particularly local small and medium-scale enterprises, which are important for the means of livelihood of major parts of the population.

29. The Committee notes that the ability of people to defend their own economic, social and cultural rights depends significantly on the availability of public information. Efforts to ensure accountability and to combat corruption also require such information in order to be effective. In this regard it is important that the privatization process should be conducted in an open and transparent manner and that the conditions under which oil concessions are granted should always be made public.

30. The Committee requests, in the second periodic report of the State party, detailed information concerning the situation faced by refugees. The Committee further requests concrete information concerning any obstacles faced by women in the protection of their economic, social and cultural rights.

31. The Committee urges the Government to work with the informal sector and seek to regulate it, rather than eliminate it, as it serves as a means of sustenance for a large number of persons. Some work in this sector may potentially grow into micro-enterprises. The Committee suggests that those engaged in this sector should be able to benefit from low-interest loans and credit incentives such as those that are being provided to small businesses.

32. The Committee requests detailed information on mechanisms relating to the right to form and join trade unions. In the next report, it requests clarification of the meaning attributed to "political activities" prohibited in the 1994 Law on Trade Unions. The Committee agrees with the views of the ILO Committee of Experts that the categories of workers prohibited from exercising their right to strike should be limited to only those fields where a strike would result in life-threatening situations.

33. The Committee requests specific information on pension benefits, particularly how the difference between pension benefits and the minimum requirements for sustenance is reconciled and how, for persons who do not meet the minimum required years of employment, the size of their pensions is affected.

34. The Committee recommends that the State party address in a more efficient and focused manner the housing needs of its population, especially the disadvantaged groups, and that it devote a substantial proportion of its budget to creating conditions leading to a higher number of people being adequately housed, in accordance with the Committee's General Comment No. 4.

35. The Committee draws the attention of the State party to the importance of collecting data relating to the practice of forced evictions and of enacting legislation concerning the rights of tenants to security of tenure, in monitoring the right to adequate housing.

36. The Committee recommends that effective control be placed on inter-State adoption of children with a view to preventing sexual and other forms of exploitation. The Government should ensure that all women receive adequate medical care during pregnancy and childbirth. The Committee requests detailed information on the effect on women of the proposed three-tier fee system.

37. The Committee recommends that the Government address as a matter of utmost urgency the basic needs of the population, including safe drinking water, food, affordable housing and health care. The Committee requests detailed information on measures being taken or envisaged for the protection of vulnerable groups, including especially children who do not have a family, single parents, the unemployed, and women who are victims of crimes of violence.

38. The Committee recommends that resources be allocated to ensure that national educational standards are strictly observed. It urges the Government to address the weakening educational system, which is having a disproportionate effect on the poor.

39. The Committee encourages the Government to reflect the spirit of the United Nations Decade for Human Rights Education in its educational curricula and to submit information in this regard to the Office of the United Nations High Commissioner for Human Rights.

40. The Committee recommends that the proposal for technical cooperation (for strengthening capacities and infrastructure for human rights protection and promotion) which is currently under review take fully into consideration the need to strengthen the protection of economic, social and cultural rights. It encourages the State party to continue to seek international assistance, including that offered by non-governmental aid organizations, in all areas where assistance is needed.

41. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the initial report which remained unanswered, be addressed in the State party's second periodic report, and it urges the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's initial report.

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